IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
Income Tax Application No.2 of 2001

The Commissioner of Income Tax. .. Applicant
v/s.
Cromption Greaves Ltd. .. Respondent

Mr.Parag Vyas for applicant.
Mr.Atul Jasani i/by M/s.Udwadia & Udeshi for respondent.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 5th December 2005

P.C. :

1. Heard Mr.Vyas in support of this Application. Mr.Jasani appears for the respondent. The following questions are raised for our consideration for the assessment year 1984-85:-

" 1. Whether on the facts and circumstances of the case and in law, the Tribunal was correct in directing to exclude the expenditure on payment to Hotel segregated out of foreign travelling expenditure for disallowance under section 37(3A) of I.T. Act ?

2. Whether on the facts and circumstances of the case and in law, the Tribunal was

correct in allowing the know-how as revenue expenditure on the ground that the payment is made by the assessee for the user of the patent and licence and not for acquiring them ?

3. Whether on the facts and circumstances of the case and in law, the Tribunal was correct in directing that the entire amount of commission and brokerage should be excluded from the purview of disallowance under Section 37(3A) of the Act? "

2. As far as Question Nos.1 and 3 are concerned, they raise a substantial question of law for the assessment year 1983-85.

3. As far as Question No.2 is concerned, the same is already decided against the revenue and Mr.Vyas states that the decision has been accepted by the revenue for the earlier year.

4. In the circumstances, we direct the Tribunal to state the case and refer the same to the High Court for determination of the above Question Nos.1 and 3. Application is allowed in the above terms.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)

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